

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUPERSHUTTLE INTERNATIONAL, INC.,

Petitioner,

No. C 14-05618 JSW

V.

ORDER

RAVIL AYSOV,

Respondent.

SUPERSHUTTLE INTERNATIONAL, INC.,

Petitioner,

No. C 14-05624 JSW

V.

ORDER

REVAZ GOTSIDZE,

Respondent.

SUPERSHUTTLE INTERNATIONAL, INC.

Petitioner.

No. C 14-05630 ISW

V

ORDER

VYACHESLAV VINGER

Respondent.

SUPERSHUTTLE INTERNATIONAL, INC.,

Petitioner,

No. C 14-05632 JSW

V₃

ORDER

SERGIU VULPE.

Respondent.

1 SUPERSHUTTLE INTERNATIONAL, INC.,
2

3 Petitioner,

4 No. C 14-05633 JSW

5 v.

6 **ORDER**

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8 GAREGIN OLAGOV,

9 Respondent.

10 Now before the Court in all related captioned cases are the motions to dismiss filed by
11 Respondents and the motions to stay proceedings and compel arbitration filed by Petitioner
12 SuperShuttle International, Inc. (“SuperShuttle”). Having considered the parties’ pleadings and
13 relevant legal authority, for the reasons set forth in this Order, the Court GRANTS Respondents’
14 motions to dismiss. In light of the Court’s finding that it lacks jurisdiction to hear this matter, the
15 Court does not address the pending motions to stay and compel arbitration.

16 **BACKGROUND**

17 There are five similar and related cases pending before this Court filed by SuperShuttle
18 against five individual Russian-born drivers of SuperShuttle vans. Each driver contracted with V&L
19 Express, LLC (“V&L Express”) to drive SuperShuttle vans. V&L Express entered into five Unit
20 Franchise Agreements (“Agreements”) with SuperShuttle. SuperShuttle contends that the
21 agreements mandate the arbitration of any controversy arising out of the Agreements.

22 Respondents filed claims against SuperShuttle and V&L Express before the California Labor
23 Commission, claiming, among other things, that SuperShuttle is liable to the drivers under the
24 California Labor Code for unpaid overtime wages, meal period wages, and rest period wages.
25 (See Declaration of Jaime B. Laurent, ¶¶ 3-4.) SuperShuttle opened an arbitration proceeding before
26 the American Arbitration Association and has paid all the filing fees for arbitration. (*Id.* at ¶ 4.)
27 SuperShuttle filed the current petitions before this Court, requesting an order pursuant to Section 4
28 of the Federal Arbitration Act compelling Respondents to arbitrate their claims currently before the
California Labor Commissioner under the terms of the V&L Express Agreements. SuperShuttle
does not join V&L Express as a party.

The Court shall address specific additional facts in the remainder of this Order.

ANALYSIS

A. Applicable Legal Standards for Motion to Dismiss.

4 A motion to dismiss is proper under Federal Rule of Civil Procedure 12(b)(6) where the
5 pleadings fail to state a claim upon which relief can be granted. The complaint is construed in the
6 light most favorable to the non-moving party and all material allegations in the complaint are taken
7 to be true. *Sanders v. Kennedy*, 794 F.2d 478, 481 (9th Cir. 1986). The Court may consider the
8 facts alleged in the complaint, documents attached to the complaint, documents relied upon but not
9 attached to the complaint, when the authenticity of those documents is not questioned, and other
10 matters of which the Court can take judicial notice. *Zucco Partners LLC v. Digimarc Corp.*, 552
11 F.3d 981, 990 (9th Cir. 2009).

12 Federal Rule of Civil Procedure 8(a) requires only “a short and plain statement of the claim
13 showing that the pleader is entitled to relief.” Even under Rule 8(a)’s liberal pleading standard, “a
14 plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than
15 labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.”
16 *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544, 555 (2007) (citing *Papasan v. Allain*, 478 U.S.
17 265, 286 (1986)). Pursuant to *Twombly*, a plaintiff must not merely allege conduct that is
18 conceivable but must instead allege “enough facts to state a claim to relief that is plausible on its
19 face.” *Id.* at 570. “A claim has facial plausibility when the plaintiff pleads factual content that
20 allows the court to draw the reasonable inference that the defendant is liable for the misconduct
21 alleged.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (citing *Twombly*, 550 U.S. at 556). “The
22 plausibility standard is not akin to a probability requirement, but it asks for more than a sheer
23 possibility that a defendant has acted unlawfully. ... When a complaint pleads facts that are merely
24 consistent with a defendant’s liability, it stops short of the line between possibility and plausibility
25 of entitlement to relief.” *Id.* (quoting *Twombly*, 550 U.S. at 556-57) (internal quotation marks
26 omitted).

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1 **B. Respondents' Motion to Dismiss Based on Failure to Join V&L Express as a Party.**

2 Respondents move to dismiss SuperShuttle's actions based on the company's failure to join
 3 V&L Express as a party to this suit. According to Respondents, V& L Express is a necessary and
 4 indispensable party whose addition would result in dismissal of this action due to destruction of
 5 diversity jurisdiction.

6 In order to determine whether dismissal for failure to join a necessary and indispensable
 7 party is appropriate, the Court engages in "three successive inquiries." *EEOC v. Peabody Western*
 8 *Coal Co.*, 400 F.3d 774, 779 (9th Cir. 2005) ("Peabody Western"). First, the district court must
 9 determine whether the absent party is a "required" party. *Id.*; *see also* Fed. R. Civ. P. 19(a). A party
 10 is "required" in two circumstances: (1) when complete relief is not possible without the absent
 11 party's presence; or (2) when the absent party claims a legally protected interest in the action such
 12 that (i) disposition of the action may "impair or impede" the person's ability to protect that interest
 13 or (ii) "leave any of the persons already parties subject to a substantial risk of incurring double,
 14 multiple, or otherwise inconsistent obligations by reason of the claimed interest." Fed. R. Civ. P.
 15 19(a); *Peabody Western*, 400 F.3d at 779.

16 Here, this case was initiated by Respondents as a claim before the California Department of
 17 Labor for wages and benefits due. In that proceeding, the drivers presented claims against both
 18 SuperShuttle and V&L Express. Although SuperShuttle's petition before this Court references V&L
 19 Express as domiciled in California, it omits the entity as a party in the petitions to compel
 20 arbitration. SuperShuttle argues that the contractual arrangement to pursue the resolution of disputes
 21 in arbitration may be resolved without the presence of the franchisee owner, V&L Express.
 22 However, the alleged joint employer or intermediary between the drivers and SuperShuttle has an
 23 interest in the resolution of the underlying contention whether the drivers are to be considered
 24 employees or independent contractors. As drivers for V&L Express, Respondents agreed to be
 25 bound by any agreements between V&L Express and SuperShuttle. All representations made in
 26 hiring and employment would be relevant to the ultimate determination of the employment
 27 relationship among the parties. V&L Express, as the intermediary between Respondents and
 28 Petitioner, should have the option to weigh in on the decision whether any possible agreement to
 arbitrate binds them and the drivers. The Court finds that V&L Express is a necessary and required

1 party in SuperShuttle's petition to enforce arbitration because the determination of the forum for
2 resolution of the ultimate question of employment status constitutes a legally protected interest in
3 the action such that disposition of the action may "impair or impede" the person's ability to protect
4 that interest. *See Fed. R. Civ. P. 19(a); Peabody Western*, 400 F.3d at 779.

5 Because V&L Express is "required" as a party, the Court must determine whether joinder is
6 feasible. *See Peabody Western*, 400 F.3d at 779. Pursuant to Rule 19(a), joinder is not "feasible"
7 when: (1) venue is improper; (2) the absentee party is not subject to personal jurisdiction; and (3)
8 when joinder would destroy subject matter jurisdiction. *See id.* Here, if Petitioners joined V&L
9 Express as a party, the Court could not maintain jurisdiction over the matter as diversity would be
10 destroyed.

11 Accordingly, the Court GRANTS the Respondents' motion to dismiss pursuant to Federal
12 Rule of Civil Procedure 12(b)(7) for failure to join a necessary party under Rule 19.

13 **CONCLUSION**

14 For the foregoing reasons, the Court GRANTS Respondents' motions to dismiss. In light of
15 the Court's finding that it lacks jurisdiction to hear this matter, the Court does not address the
16 pending motions to stay and compel arbitration. A separate judgment shall issue and the clerk may
17 close the file.

18 **IT IS SO ORDERED.**
19 Dated: July 23, 2015


20 JEFFREY S. WHITE
21 UNITED STATES DISTRICT JUDGE
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